MONTANA LEGISLATIVE HISTORY

Chapter 492 19 85

Bill H _____ S 433 Original bill & history ✓ C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	3/25	C	Hearing Date(s)	2/22	C
	3/25	C		2/22	C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE BILL NO. 433

INTRODUCED BY NORMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE SENATE

February 16, 1985	Introduced and referred to Committee on Judiciary.
February 22, 1985	Committee recommend bill do pass as amended. Report adopted.
February 23, 1985	Bill printed and placed on members' desks.
February 26, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 27, 1985	Third reading, passed. Ayes, 50; Noes, 0.
	Transmitted to House.

IN THE HOUSE

March 7, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurred in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in.
	Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 433

INTRODUCED BY Norman

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LIABILITY OF MEDICAL EXAMINERS AND PHYSICIANS WHO PERFORM AUTOPSIES AT THE REQUEST OF A FEDERAL AGENT INVESTIGATING A DEATH WITHIN A FEDERAL JURISDICTION; AMENDING SECTIONS 44-3-401 AND 46-4-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-3-401, MCA, is amended to read:

"44-3-401. Exemption from liability for autopsy. No criminal or civil action may arise against a medical examiner for performing an autopsy under this chapter or on request of a federal officer investigating a death within a federal jurisdiction."

Section 2. Section 46-4-104, MCA, is amended to read:

"46-4-104. Liability of a mortuary or physician. No person or firm owning a mortuary or any person employed in such a mortuary shall be liable for the acts of the coroner performed in the removal of any body to a mortuary or during the course of an autopsy on such body. No criminal or civil action shall arise against a licensed physician for performing an autopsy authorized by this chapter or on request of a federal officer investigating a death within a federal jurisdiction."

-End-

LC 1114/01

INTRODUCED BILL
SB 433

5/09 SIGNED BY GOVERNOR
CHAPTER NUMBER 699 EFFECTIVE DATE: 5/09/85

SB 432 INTRODUCED BY ECK, KEENAN, HALLIGAN, TOWE
EXPANDING THE CONTENTS OF THE DEPARTMENT OF REVENUE'S BIENNIAL REPORT

2/15 INTRODUCED
2/16 REFERRED TO TAXATION
2/16 FISCAL NOTE REQUESTED
2/20 HEARING
2/21 FISCAL NOTE RECEIVED
2/23 COMMITTEE REPORT-BILL PASS AS AMENDED
2/26 2ND READING PASS 26 22
2/27 3RD READING PASS 26 24

TRANSMITTED TO HOUSE
3/06 REFERRED TO TAXATION
3/19 HEARING
3/19 ADVERSE COMMITTEE REPORT
3/20 BILL KILLED 59 38

SB 433 INTRODUCED BY NORMAN
LIMIT LIABILITY OF MEDICAL EXAMINERS PERFORMING AUTOPSIES FOR FBI
BY REQUEST OF DEPARTMENT OF JUSTICE

2/15 INTRODUCED
2/16 REFERRED TO JUDICIARY
2/22 HEARING
2/22 COMMITTEE REPORT-BILL PASS AS AMENDED
2/26 2ND READING PASS 48 0
2/27 3RD READING PASS 50 0

TRANSMITTED TO HOUSE
3/06 REFERRED TO JUDICIARY
3/25 HEARING
3/25 COMMITTEE REPORT-BILL CONCURRED
3/30 2ND READING CONCURRED 95 1
4/01 3RD READING CONCURRED 100 0

RETURNED TO SENATE
4/08 SIGNED BY PRESIDENT
4/09 SIGNED BY SPEAKER

4/10 TRANSMITTED TO GOVERNOR
4/15 SIGNED BY GOVERNOR
CHAPTER NUMBER 492 EFFECTIVE DATE: 10/01/85

SB 434 INTRODUCED BY ECK, HALLIGAN, ADDY
AUTHORITY TO IMPOSE AFTER A VOTE CERTAIN LOCAL OPTION TAXES

2/15 INTRODUCED
2/16 REFERRED TO TAXATION
2/19 FISCAL NOTE REQUESTED
2/22 FISCAL NOTE RECEIVED
2/22 HEARING
3/12 TABLED IN COMMITTEE

CHAIRMAN--MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0424	2/15	2/22		PASS AS AMENDED		2/23
WILLIAMS, BOB			PRESCRIPTIVE EASEMENT NOT ACQUIRED BY RECREATIONAL USE OF LAND OR WATER			
SB0429	2/16	2/21		PASS AS AMENDED		2/23
PINSONEAULT,R.J.(DICK)			ADOPT A LAW TO CURTAIL ORGANIZED CRIME			
SB0433	2/16	2/22		PASS AS AMENDED		2/22
NORMAN, BILL			LIMIT LIABILITY OF MEDICAL EXAMINERS PERFORMING AUTOPSIES FOR FBI			
SB0439	2/16	XXXX	2/23	TABLED without hearing		2/22
GALT, JACK E.			RESERVED WATER RIGHTS CLAIM APPLICATION			
SB0446	2/18	2/21		PASS AS AMENDED		2/23
HAGER, TOM			PROVIDES FOR THE OFFENSE OF UNLAWFUL APPROPRIATION OF RETAILER PROPERTY			
SB0449	2/19	2/22		PASS AS AMENDED		2/23
REGAN, PAT			CREATES CRIME OF DOMESTIC ABUSE; REQUIRES ARREST FOR ITS VIOLATION			
SB0451	2/20	2/21		PASS AS AMENDED		2/23
MAZUREK, JOSEPH P.			PROVIDES FOR THE FAIR AND PROPER TREATMENT OF CRIME VICTIMS AND WITNESSES			
SB0453	2/20	2/22		PASS AS AMENDED		2/23
VAN VALKENBURG, FRED			REGULATE WIRETAPS			
SB0459	2/21	2/25		TABLED		2/25
FULLER, DAVID E.			STRENGTHENING REQUIREMENTS FOR UNINSURED MOTORIST COVERAGE			
SJ0007	1/14	1/25	2/06	ADVERSE REPORT		2/4
SHAW, JAMES N.			JOINT RESOLUTION CALLING FOR A 10 PERCENT REDUCTION IN THE STATE BUDGET			
SJ0019	2/08	2/14	2/14	DO PASS		2/15
MANNING, RICHARD E.			URGING REPEAL OF FEDERAL LAW THAT LIMITS POLITICAL ACTIVITY FED. WORKERS			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 22, 1985

The thirty-seventh meeting of the Senate Judiciary Committee was called to order at 10:05 a.m. on February 22, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

TABLING OF SB 439: Senator Jack Galt, sponsor of SB 439, stated that in view of the fact that the contents of this bill were taken care of in the committee's action on SB 28, and in view of the fact there were no witnesses present to testify on the bill, he moved SB 439 be TABLED. The motion carried unanimously.

CONSIDERATION OF SB 449: Senator Pat Regan, sponsor of SB 449, testified that this bill addresses the subject of domestic abuse. The bill is an attempt to accomplish three things: (1) to define domestic abuse; (2) to make it a criminal offense; and (3) to prohibit a police officer from accepting bail (making it necessary for the offender to appear before a magistrate to post bond). Senator Regan stated she would like the committee to strike section 2 from the bill.

PROPONENTS: Nancy Challren, a volunteer from the Friendship Center, appeared in support of the bill (see witness sheet and written testimony attached as Exhibit 1). Amy Pfeifer, on behalf of the Women's Law Caucus of the University of Montana School of Law, appeared in support of the bill (see witness sheet and written testimony attached as Exhibit 2). Marjorie Thomas, on behalf of the Deer Lodge County Attorney's Office, appeared in support of the bill (see witness sheet attached as Exhibit 3). Caryl Wickes Borchers, representing the Montana Coalition Against Domestic Violence, testified in support of SB 449 (see witness sheet and written testimony attached as Exhibit 4 in addition to testimony also attached as Exhibit 4A presented on behalf of others who were unable to attend the hearing). Lenore Taliaferro, a staff person at the Friendship Center in Helena, testified in support of the bill (see witness sheet attached as Exhibit 5). Betty Elias, representing Hi Lines Help for Abused Spouses, testified in support of SB 449 (see witness sheet attached as Exhibit 6). Janet Schmidt, who works in one of the shelters for battered women and children in Great Falls, presented written testimony in support of the bill (Exhibit 7). Melinda, from Great Falls, also submitted written testimony in support of the bill (Exhibit 8). Mary, from Great Falls, testified she is in favor of SB 449 as a positive

CONSIDERATION OF SB 433: Senator Bill Norman, sponsor of SB 433, introduced the bill and stated it relates to autopsies performed by forensic pathologists. He explained to the committee how after an autopsy, the information obtained is used in further proceedings (usually criminal). This bill relates to the pathologist and, more specifically, his liability-what happens if he doesn't do his job right. He, like any other physician, may do something improper and he is then liable like anyone else. This bill relates to his legal liability. A coroner can order an autopsy. The pathologist then proceeds and submits his findings. This bill relates to federal jurisdiction--places where a crime occurs on federal land. The FBI and federal government have no forensic pathologist that is available, so they ask the state to come in and do the autopsy. This bill relates to who bears the liability. Again, malpractice is not being considered. Senator Norman asked if this were a shift of responsibility from the federal government to the state. The bill as drafted was amended to clarify that this wasn't the case.

PROPONENTS: Chris Tweeten, representing the Attorney General's Office, stated they were asked to propose legislation along these lines by the medical examiners because there is no federal statute authorizing the FBI to order autopsies, but the jurisdiction of those officers to do that is unclear. What the legislature can do is extend to the medical examiner the same protection as when he acts at the direction of the coroner.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe stated he did not think the bill actually conveyed the language suggested by Senator Norman. He suggested the bill be amended as follows:

Page 1, line 15.
Following: "or"
Insert: "for performing an autopsy"

Page 1, line 25.
Following: "or"
Insert: "for performing an autopsy"

Neither Senator Norman nor Mr. Tweeten objected to this suggestion.

Hearing on SB 433 was closed. Chairman Mazurek announced SB 418, SB 421, and SB 424 would be heard together as they were on a similar subject matter.

CONSIDERATION OF SB 418, SB 421, AND SB 424: Senator Pete Story, sponsor of SB 421, stated all this bill does is give the rancher and

ACTION ON SB 433: Senator Daniels moved SB 433 be amended as follows:

Page 1, line 15.
Following: "or"
Insert: "for performing an autopsy"

Page 1, line 25.
Following: "or"
Insert: "for performing an autopsy"

The motion carried unanimously. Senator Daniels moved SB 433 be recommended DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON SB 411: Proposed amendments and a statement of intent were distributed to the committee (Exhibit 21. Mr. Petesch explained the amendments were suggested by Mr. Chisholm. Senator Towe moved adoption of the amendments and statement of intent. The motion carried unanimously. Senator Daniels stated he shared the concern of the department regarding page 6, lines 15-18. He believes children under 12 should not be thrown in indiscriminately with older kids. Mr. Petesch stated the statutory reference is to a general grant of rulemaking authority concerning admissions. The statement of intent, in No. 3, is intended to address that concern that the center would have to provide for the child's safety and security. Senator Mazurek stated what Senator Daniels has asked is should we not provide in legislation that children under 12 should be segregated. Mr. Petesch stated this section that is referenced does not address that issue at all. Senator Towe stated he has no problem in putting that in the bill. Although the facility may allow for segregation, he believes that may not be in the child's best interests because there would probably be few children there under the age of 12, and it might not be best to segregate them. Senator Towe stated he would be more inclined to say we should deal with that in the statement of intent by adding a subsection (5) which would state: "whenever proper and in the best interests of the child, segregation of persons under the age of 12 from remaining patients should be considered." Senator Daniels stated if that were in the statement of intent, he would be satisfied. Senator Towe stated it is a very secure facility, but at the same time, it is much like a college dorm in other respects. Senator Crippen advised the committee that it was his understanding the House committee on State Administration has passed a bill to allow the state to sell the facility to Yellowstone County for the SIDs on the building, so the question may be moot. Senator Towe moved adoption of his suggested amendment to the statement of intent. The motion carried

STANDING COMMITTEE REPORT

February 22 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 433

first reading copy (white color)

LIMIT LIABILITY OF MEDICAL EXAMINERS PERFORMING AUTOPSIES FOR FBI.

Respectfully report as follows: That SENATE BILL No. 433

be amended as follows:

1. Page 1, line 15.
Following: "or"
Insert: "for performing an autopsy"

2. Page 1, line 25.
Following: "or"
Insert: "for performing an autopsy"

AND AS AMENDED

DO PASS

~~BE NOT PASS~~

Senator Joe Mazurek Chairman.

(To be kept current -- post bills when entering being heard or leaving committee.)

Form CS-32

STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 392	3/7/85	3/22/85	3/22/85						3/22/85 AS AMENDED
SB 411	3/7/85	3/22/85	3/22/85					3/22/85	
SB 412	3/7/85	3/25/85	3/25/85					3/25/85	
SB 414	3/7/85	3/20/85 3/21/85	3/21/85				3/21/85		
SB 418	3/7/85	3/26/85	3/27/85						3/26/85
SB 421	3/7/85	3/26/85		(Table bill 3/26/85)					
SB 424	3/7/85	3/26/85	3/27/85						3/26/85
SB 433	3/7/85	3/25/85	3/25/85				3/25/85		
SB 435	3/7/85	3/26/85	3/27/85						3/26/85
SB 449	3/7/85	3/21/85 3/28/85	3/28/85					3/28/85	
SB 451	3/7/85	3/25/85	3/25/85					3/25/85	
SB 453	3/7/85	3/21/85 3/27/85	(Tabled 3/27/85)						
SB 105	3/18/85	(re-referred back to committee)					Re-considered 3/19/85 and passed out with ~~BE CONCURRED~~ IN recommendation 3/19/85		
SB 230	3/18/85	(re-refer back to committee)					Re-considered 3/19/85 and passed out with BE CONCURRED IN recommendation 3/19/85		
SB 446	3/23/85	3/27/85 3/28/85	3/28/85					3/28/85	
SB 319	3/25/85	3/28/85	3/28/85				3/28/85		

Use a separate sheet for each House Bill and Resolution

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Monday, March 25, 1985 at 7:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present with Rep. Krueger arriving later during the meeting.

CONSIDERATION OF SENATE BILL NO. 451: Senator Joe Mazurek, Senate District #23, sponsor of this bill, testified. This bill includes what is similar to a portion of the Federal Victims and Witnesses Act on the Montana level. Senator Mazurek said that Judge Henry Loble brought this to his attention, and it is something that Judge Loble has been practicing since he was elected as a district judge. The bill just makes an effort to make victims and witnesses aware of what goes on in the criminal process. It would keep the victim of a crime or witnesses involved in a crime aware of what is going on in the process. They would be consulted with respect to sentences and other things. Everything that is set forth in this bill is new and he explained the sections of the bill in fuller detail. Senator Mazurek feels this is a good bill, and he feels that victims and witnesses should be entitled to know what is going on in the process.

PROPONENTS:

Judge Henry Loble, district court judge from the 1st Judicial District in Helena, said that since he has been a judge, he has been practicing this -- he consults the victim before the sentence is implemented giving the victim the opportunity for input. He doesn't feel that the judge can understand what proper sentence should be given to that person until the judge hears from the victim. To his surprise, he found that he was not the only one interested in this aspect of criminal justice. He said that President Reagan's Task Force on the Victims of Crime is a very interesting document. The federal government has on the books a law very similar to SB 451 only that the federal law goes considerably further. It is called the Victims and Witnesses Protection Act of 1982. He said that many of us who have never been victims of a crime don't realize the trauma that a victim goes through. He feels that they are entitled to know what is happening in the system with regard to the crime they were involved in.

There being no further proponents, Chairman Hannah requested any opponents to testify.

OPPONENTS:

Robert Deschamps, Missoula County Attorney, representing the Montana County Attorney's Assocaition, testified as being partially in opposition to this bill. He said that while he

There being no further questions, the hearing was closed on SB 451.

CONSIDERATION OF SENATE BILL NO. 433: Senator Bill Norman, Senate District #28, sponsor of SB 433, testified. Senator Norman said SB 433 relates to unexplained death. More exactly, it relates to forensic pathology which relates to crime. He said the material on page 2 of the bill relates to the liability of the forensic pathologist. This has nothing to do with malpractice -- it is a matter of authority or jurisdiction. He said that the FBI has no device to order an autopsy -- certainly not to order a state forensic pathologist to do so. But, deaths do occur under federal jurisdiction, so they ask the forensic pathologist to do the autopsy which will provide an explanation for the cause of death. In so doing, the coroner is not included although he has to order the forensic pathologist to perform the autopsy. There remains a question of "who is liable?"

Chris Tweeten, assistant attorney general for the State of Montana, testified as a proponent. He said that at the request of the medical examiners, this legislation was proposed. The bill doesn't really do anything different from current law other than expand the protection of medical examiners into areas where the jurisdiction lies in the federal government as opposed to jurisdiction in the coroner's system.

There being no further proponents or opponents, Senator Norman closed.

The floor was opened to questions.

Rep. Keyser asked Senator Norman if he knew of another part of the law that defines medical examiner so we know exactly what type of medical examiner we are talking about. This may be too broad and covers perhaps other medical examiners that you don't intend to be covered. Mr. Tweeten said that Chapter 3, Title 44 does define the term "medical examiner". It is possible that if a pathologist were not a forensic pathologist and was called in to conduct an autopsy, it could be argued that he is not a medical examiner. He feels that this would be a highly technical argument.

Rep. Gould asked Mr. Tweeten under what circumstances could a medical examiner be sued. The medical examiner informed Mr. Tweeten that there are only two situations in which pathologists can get into that type of problem. One is where he does not conduct his autopsy in accordance with a reasonable medical stand. This bill doesn't address that problem. The other is a situation where the family of the deceased or whoever might be left an estate might bring action challenging the authority of the coroner or medical examiner who conducted the autopsy in the first place.

There being no further questions, the hearing was closed on SB 433.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 44: Rep. Cal Winslow, House District #89, sponsor of HJR 44, testified in support of the bill. This legislation calls for an interim study of juvenile detention facilities in the state. He said that this is a problem that is becoming more prominent in the state since recent federal regulations have required that juveniles be placed in seperate facilities in the jails from where the adults are placed. Montana presently has no law saying that they have to be separate, but because of the recent federal court case in Oregon, D.B. v. Tewksbury, the federal government has now mandated that separate detention facilities be available for youth. There is no county in the state of Montana that has this type of facility to take care of its youth. This study just calls for developing a plan to look at what can be done for those serious offender youths. By 1987, if Montana does not have a plan, we have been told that we will no longer receive federal funds which are passed to the Board of Crime Control down to the counties. It is a serious problem that not too many people have looked at closely. He feels the following considerations should be looked into. What alternatives can be available for youth detention; a juvenile pre-trial release system; maybe a state subsidy program to help the local communities in supporting them in some of these programs, as well as developing some kind of a regional facility. The problem that is occurring now and will continue to occur, if this problem is not addressed is that the counties will start shipping their youths to Pine Hills School or Mountain View, and the State will end up paying for those costs. Rep. Winslow feels that we will be able to come up with the dollars for the study from some of the Board of Crime Control monies that are being passed down to the counties.

There being no further proponents or opponents, Rep. Winslow closed. The floor was opened to questions from the committee.

Rep. Brown asked if this relates to pre-trial, pre-sentencing circumstances. Rep. Winslow replied that it did. Rep. Brown said that he has a resolution ready to be introduced dealing with the convictions of serious youthful offenders and regional detention centers. Rep. Brown asked Rep. Winslow if he thought those kinds of studies are the type that could be combined into one study. Rep. Winslow felt they could be.

Rep. Winslow said that the Board of Crime Control is funded by some general fund and some federal dollars, however, it is mostly federal dollars. Rep. Brown said that when he talked to them about funding, there was considerable concern that the funds of the Board of Crime Control were stretched to the limit. Rep. Brown asked Rep. Winslow if he has talked to the Board about this. Rep. Winslow said he hasn't. He said the county

EXECUTIVE SESSION:

ACTION ON HJR 44: Rep. D. Brown moved that HJR 44 DO PASS. The motion was seconded by Rep. Bergene. Rep. Gould requested that action on the bill be postponed. He said the Youth Court Justice did the same thing two years ago and he wants to check it out further.

Rep. Hannah said he would like to act on the bill today but the standing committee report will be held depending on what Rep. Gould finds out. The question was called, and the motion carried unanimously.

ACTION ON SENATE BILL NO. 433: Rep. Gould moved that SB 433 BE CONCURRED IN. The motion was seconded by Rep. Miles and discussed. The question was called, and the motion carried unanimously. Rep. Gould agreed to carry the bill on second reading.

ACTION ON SENATE BILL NO. 451: Rep. O'Hara moved that SB 451 BE CONCURRED IN. The motion was seconded by Rep. Addy and discussed. Rep. Hammond stated that he did not like the bill. He feels that it will create a nightmare for county attorneys by requiring them to notify all witnesses and victims in a criminal case.

Rep. Keyser moved that any reference made to "witnesses" throughout the bill be stricken so that it would just apply to "victims". Rep. O'Hara seconded the motion. Rep. Hannah said he would vote against this particular amendment because he feels that witnesses should also be notified of the court proceedings. He said that it is not only a courtesy to notify these people but only fair. He doesn't see where it would present an unusual burden to these people to be required to notify both witnesses and victims of crimes.

Rep. Addy doesn't feel that it is necessary that witnesses be notified. Rep. Keyser pointed out that when he was involved in law enforcement, the county attorney would notify those witnesses of date changes, etc. He feels that any good county attorney would do this anyway in order not to provoke his witnesses. In response, Rep. Hannah said that as long as they are doing this, witnesses should be left in.

Rep. Mercer didn't support the amendment. He thought it would be better to request that witnesses and victims leave their names and addresses if they so wish to be contacted. He further stated that he feels it is the victim's right to know when the offender has been arrested. Rep. Eudaily also feels this will be a burden on officers.

(Rep. Krueger appeared at the meeting.)

The question was called, and Rep. Keyser's motion failed on a

STANDING COMMITTEE REPORT

March 25 19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 433

Third reading copy (Blue color)

LIMIT LIABILITY OF MEDICAL EXAMINERS PERFORMING AUTOPSIES FOR FBI

Respectfully report as follows: That Senate Bill No. 433

BE CONCURRED IN
~~DO PASS~~

Rep. Tom Hannah Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

SENATE BILL NO. 433

INTRODUCED BY NORMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LIABILITY OF MEDICAL EXAMINERS AND PHYSICIANS WHO PERFORM AUTOPSIES AT THE REQUEST OF A FEDERAL AGENT INVESTIGATING A DEATH WITHIN A FEDERAL JURISDICTION; AMENDING SECTIONS 44-3-401 AND 46-4-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 44-3-401, MCA, is amended to read:

"44-3-401. Exemption from liability for autopsy. No criminal or civil action may arise against a medical examiner for performing an autopsy under this chapter or FOR PERFORMING AN AUTOPSY on request of a federal officer investigating a death within a federal jurisdiction."

Section 2. Section 46-4-104, MCA, is amended to read:

"46-4-104. Liability of a mortuary or physician. No person or firm owning a mortuary or any person employed in such a mortuary shall be liable for the acts of the coroner performed in the removal of any body to a mortuary or during the course of an autopsy on such body. No criminal or civil action shall arise against a licensed physician for performing an autopsy authorized by this chapter or FOR PERFORMING AN AUTOPSY on request of a federal officer investigating a death within a federal jurisdiction."

-End-